

## **20.0 TERM AND TERMINATION.**

**20.1** The initial term of this Agreement shall be three (3) years (the "Term") which shall commence on the Effective Date. Absent the receipt by one Party of written notice from the other Party at least sixty (60) days prior to the expiration of the Term to the effect that such Party does not intend to extend the Term of this Agreement, this Agreement shall automatically renew and remain in full force and effect on and after the expiration of the Term until terminated by either Party pursuant to Section 20.3.

**20.2** Either Party may terminate this Agreement in the event that the other Party (i) fails to pay any amount when due hereunder (excluding Disputed Amounts pursuant to Section 28.11) and fails to cure such nonpayment within sixty (60) days after receipt of written notice thereof; or (ii) fails to perform any other material obligation required to be performed by it pursuant to this Agreement and fails to cure such material nonperformance within forty-five (45) days after written notice thereof.

**20.3** If pursuant to Section 20.1 this Agreement continues in full force and effect after the expiration of the Term, either Party may terminate this Agreement ninety (90) days after delivering written notice to the other Party of its intention to terminate this Agreement. Neither Party shall have any liability to the other Party for termination of this Agreement pursuant to this Section 20.3 other than to pay to the other Party any amounts owed under this Agreement.

**20.4** Upon termination or expiration of this Agreement in accordance with this Section 20.0:

(a) each Party shall comply immediately with its obligations set forth in Section 28.6.3;

(b) each Party shall continue to perform its obligations and provide the services as described herein until such time as a successor agreement between the Parties is entered into; provided, however, that the Parties shall renegotiate the rates, fees and charges contained herein; and

(c) each Party shall promptly pay all amounts (including any late payment charges) owed under this Agreement.

**20.5** Except as set forth in Section 26.5, no remedy set forth in this Agreement is intended to be exclusive and each and every remedy shall be cumulative and in addition to any other rights or remedies now or hereafter existing under applicable law or otherwise.

## **21.0 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES.**

EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, NO PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, FUNCTIONS AND PRODUCTS IT PROVIDES UNDER OR CONTEMPLATED BY THIS AGREEMENT AND THE PARTIES DISCLAIM THE IMPLIED

**WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.**

**22.0 CANCELLATION CHARGES.**

Except as provided in Sections 9.6.4 and 19.4 and pursuant to a Network Element Bona Fide Request, or as otherwise provided in any applicable tariff or contract referenced herein, no cancellation charges shall apply.

**23.0 NON-SEVERABILITY.**

**23.1** The services, arrangements, Interconnection, Network Elements, terms and conditions of this Agreement were mutually negotiated by the Parties as a total arrangement and are intended to be non-severable, subject only to Section 28.14 of this Agreement.

**23.2** Nothing in this Agreement shall be construed as requiring or permitting either Party to contravene any mandatory requirement of federal or state law, or any regulations or orders adopted pursuant to such law.

**24.0 INDEMNIFICATION.**

**24.1** Each Party shall be responsible only for service(s) and facility(ies) which are provided by that Party, its authorized agents, subcontractors, or others retained by such parties, and neither Party shall bear any responsibility for the services and facilities provided by the other Party, its agents, subcontractors, or others retained by such parties.

**24.2** Except as otherwise provided in Sections 24.3, 24.4 and 25.2, and to the extent not prohibited by law and not otherwise controlled by tariff, each Party (the "Indemnifying Party") shall defend and indemnify the other Party (the "Indemnified Party") and hold such Indemnified Party harmless against any Loss to a third party arising out of the negligence or willful misconduct by such Indemnifying Party, its agents, its Customers, contractors, or others retained by such parties, in connection with its provision of services or functions under this Agreement.

**24.3** In the case of any Loss alleged or made by a Customer of either Party, the Party ("Indemnifying Party") whose Customer alleged or made such Loss shall defend and indemnify the other Party (the "Indemnified Party") and hold such Indemnified Party harmless against any or all of such Loss alleged by each and every Customer.

**24.4** Each Party ("Indemnified Party") shall be indemnified, defended and held harmless by the other Party ("Indemnifying Party") against any Loss arising from such Indemnifying Party's use of services offered under this Agreement, involving:

- (1) Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the Indemnifying Party's own communications or the communications of such Indemnifying Party's Customers; or

(2) Claims for patent, trademark, copyright infringement or other infringement of intellectual property rights, arising from the Indemnifying Party's acts combining or using the service furnished by the Indemnified Party in connection with facilities or equipment furnished by the Indemnifying Party or its Customers, agents, subcontractors or others retained by such parties.

**24.5** The Indemnifying Party agrees to defend any suit brought against the Indemnified Party for any Loss identified in this Section 24.0. The Indemnified Party agrees to notify the Indemnifying Party promptly in writing of any written claims, lawsuits, or demand for which such Indemnifying Party is or may be responsible and of which the Indemnified Party has knowledge and to cooperate in every reasonable way to facilitate defense or settlement of claims. The Indemnifying Party shall have the exclusive right to control and conduct the defense and settlement of any such actions or claims subject to consultation with the Indemnified Party. The Indemnifying Party shall not be liable for any settlement by the Indemnified Party unless such Indemnifying Party has approved such settlement in advance and agrees to be bound by the agreement incorporating such settlement.

## **25.0 LIMITATION OF LIABILITY.**

**25.1** Except as otherwise provided in Section 24.0, no Party shall be liable to the other Party for any Loss, defect or equipment failure caused by the conduct of the other Party, the other Party's agents, servants, contractors or others acting in aid or concert with the other Party.

**25.2** Except for Losses alleged or made by a Customer of either Party, in the case of any Loss arising from the negligence or willful misconduct of both Parties, each Party shall bear, and its obligations under this Section 25.0 shall be limited to, that portion (as mutually agreed to by the Parties) of the resulting expense caused by its (including that of its agents, servants, contractors or others acting in aid or concert with it) negligence or willful misconduct.

**25.3** Except for indemnity obligations under Sections 24.2 and 24.4, each Party's liability to the other Party for any Loss relating to or arising out of any negligent act or omission in its performance of this Agreement, whether in contract or in tort, shall be limited to the total amount that is or would have been charged to the other Party by such negligent or breaching Party for the service(s) or function(s) not performed or improperly performed.

**25.4** In no event shall either Party have any liability whatsoever to the other Party for any indirect, special, consequential, incidental or punitive damages, including but not limited to loss of anticipated profits or revenue or other economic loss in connection with or arising from anything said, omitted or done hereunder (collectively, "Consequential Damages"), even if the other Party has been advised of the possibility of such damages; provided, that the foregoing shall not limit a Party's obligation under Section 24.2 to indemnify, defend and hold the other Party harmless against any amounts payable to a third party, including any losses, costs, fines, penalties, criminal or civil judgments or settlements, expenses (including attorneys' fees) and Consequential Damages of such third party.

## **26.0 LIQUIDATED DAMAGES FOR SPECIFIED ACTIVITIES.**

**26.1 Certain Definitions.** When used in this Section 26.0, the following terms shall have the meanings indicated:

**26.1.1 "Specified Performance Breach"** means the failure by Ameritech to meet the Performance Criteria for any Specified Activity for a period of three (3) consecutive calendar months.

**26.1.2 "Specified Activity"** means any of the following activities:

- (i) the installation by Ameritech of unbundled Loops for MFS ("Unbundled Loop Installation");
- (ii) Ameritech's provision of Interim Telecommunications Number Portability; or
- (iii) the repair of out of service problems for MFS ("Out of Service Repairs").

**26.1.3 Performance Criteria"** means, with respect to each calendar month during the term of this Agreement, the performance by Ameritech during such month of each Specified Activity shown below within the time interval shown in at least eighty percent (80%) of the covered instances:

<b>SPECIFIED ACTIVITY</b>	<b>PERFORMANCE INTERVAL</b>
<b>(i) <u>Unbundled Loop Installation</u></b>	<b>DATE</b>
1-10 Loops per Service Order	5 days from Ameritech's Receipt of valid Service Order
11-20 Loops per Service Order	10 days from Ameritech's Receipt of valid Service Order
21+ Loops per Service Order	to be Negotiated
<b>(ii) <u>Interim Number Portability</u></b>	
1-10 Numbers per Service Order	5 days from Ameritech's Receipt of valid Service Order
11-20 Numbers per Service Order	10 days from Ameritech's Receipt of valid Service Order
21+ Numbers per Service Order	to be Negotiated
<b>(iii) <u>Out-of-Service Repairs</u></b>	Less than 24 hours from Ameritech's Receipt of Notification of Out-of-Service Condition

**26.2 Specified Performance Breach.** In recognition of the (1) loss of Customer opportunities, revenues and goodwill which MFS might sustain in the event of a Specified Performance Breach; (2) the uncertainty, in the event of such a Specified Performance Breach, of MFS having available to it customer opportunities similar to those opportunities currently available to MFS; and (3) the difficulty of accurately ascertaining the amount of damages MFS would sustain in the event of such a Specified Performance Breach, Ameritech agrees to pay MFS, subject to Section 26.4 below, damages as set forth in Section 26.3 below in the event of the occurrence of a Specified Performance Breach.

**26.3 Liquidated Damages.** The damages payable by Ameritech to MFS as a result of a Specified Performance Breach shall be \$75,000 for each Specified Performance Breach (collectively, the "Liquidated Damages"). MFS and Ameritech agree and acknowledge that (a) the Liquidated Damages are not a penalty and have been determined based upon the facts and circumstances of MFS and Ameritech at the time of the negotiation and entering into of this Agreement, with due regard given to the performance expectations of each Party; (b) the Liquidated Damages constitute a reasonable approximation of the damages MFS would sustain if its damages were readily ascertainable; and (c) MFS shall not be required to provide any proof of the Liquidated Damages.

**26.4 Limitations.** In no event shall Ameritech be liable to pay the Liquidated Damages if Ameritech's failure to meet or exceed any of the Performance Criteria is caused, directly or indirectly, by a Delaying Event. A "Delaying Event" means (a) a failure by MFS to perform any of its obligations set forth in this Agreement (including, without limitation, the Implementation Schedule and the Joint Grooming Plan), (b) any delay, act or failure to act by a Customer, agent or subcontractor of MFS or (c) any Force Majeure Event. If a Delaying Event (i) prevents Ameritech from performing a Specified Activity, then such Specified Activity shall be excluded from the calculation of Ameritech's compliance with the Performance Criteria, or (ii) only suspends Ameritech's ability to timely perform the Specified Activity, the applicable time frame in which Ameritech's compliance with the Performance Criteria is measured shall be extended on an hour-for-hour or day-for-day basis, as applicable, equal to the duration of the Delaying Event.

**26.5 Sole Remedy.** The Liquidated Damages shall be the sole and exclusive remedy of MFS under this Agreement for Ameritech's breach of the Performance Criteria and a Specified Performance Breach as described in this Section 26.0.

**26.6 Records.** Ameritech shall maintain complete and accurate records, on a monthly basis, of its performance under this Agreement of each Specified Activity and its compliance with the Performance Criteria. Ameritech shall provide to MFS such records in a self-reporting format on a monthly basis. Notwithstanding Section 28.6.1, the Parties agree that such records shall be deemed "Proprietary Information" under Section 28.6.

## **27.0 REGULATORY APPROVAL.**

The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC. The Parties covenant and agree that this Agreement is satisfactory to them as an agreement under Section 251 of the Act. Each Party covenants and agrees to fully support approval of this Agreement by the Commission or the FCC under Section 252 of the Act without modification. The Parties, however, reserve the right to seek regulatory relief and otherwise seek redress from each other regarding performance and implementation of this Agreement. In the event the Commission rejects any portion of this Agreement, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification of the rejected portion.

## **28.0 MISCELLANEOUS.**

### **28.1 Authorization.**

**28.1.1** Ameritech Information Industry Services, a division of Ameritech Services, Inc., is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform the obligations hereunder on behalf of Ameritech Michigan.

28.1.2 MFS is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

**28.2 Compliance.** Each Party shall comply with all applicable federal, state, and local laws, rules, and regulations applicable to its performance under this Agreement.

**28.3 Compliance with the Communications Law Enforcement Act of 1994 ("CALEA").** Each Party represents and warrants that any equipment, facilities or services provided to the other Party under this Agreement comply with CALEA. Each Party shall indemnify and hold the other Party harmless from any and all penalties imposed upon the other Party for such noncompliance and shall at the non-compliant Party's sole cost and expense, modify or replace any equipment, facilities or services provided to the other Party under this Agreement to ensure that such equipment, facilities and services fully comply with CALEA.

**28.4 Independent Contractor.** Each Party shall perform services hereunder as an independent contractor and nothing herein shall be construed as creating any other relationship between the Parties. Each Party and each Party's contractor shall be solely responsible for the withholding or payment of all applicable federal, state and local income taxes, social security taxes and other payroll taxes with respect to their employees, as well as any taxes, contributions or other obligations imposed by applicable state unemployment or workers' compensation acts. Each Party has sole authority and responsibility to hire, fire and otherwise control its employees.

**28.5 Force Majeure.** Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event").

**28.6 Confidentiality.**

**28.6.1** Any information such as specifications, drawings, sketches, business information, forecasts, models, samples, data, computer programs and other software and documentation of one Party (a "Disclosing Party") that is furnished or made available or otherwise disclosed to the other Party or any of its employees, contractors, agents or Affiliates (its "Representatives" and with a Party, a "Receiving Party") pursuant to this Agreement ("Proprietary Information") shall be deemed the property of the Disclosing Party. Proprietary Information, if written, shall be marked "Confidential" or "Proprietary" or by other similar notice, and, if oral or visual, shall be confirmed in writing as confidential by the Disclosing Party to the Receiving Party within ten (10) days after disclosure. Unless Proprietary Information was previously known by the Receiving Party free of any obligation to keep it confidential, or has been or is subsequently made public by an act not attributable to the Receiving Party, or is explicitly agreed in writing not to be regarded as confidential, it (a) shall

be held in confidence by each Receiving Party; (b) shall be disclosed to only those Representatives who have a need for it in connection with the provision of services required to fulfill this Agreement and shall be used only for such purposes; and (c) may be used for other purposes only upon such terms and conditions as may be mutually agreed to in advance of use in writing by the Parties. Notwithstanding the foregoing sentence, a Receiving Party shall be entitled to disclose or provide Proprietary Information as required by any governmental authority or applicable law only in accordance with Section 28.6.2.

**28.6.2** If any Receiving Party is required by any governmental authority or by applicable law to disclose any Proprietary Information, then such Receiving Party shall provide the Disclosing Party with written notice of such requirement as soon as possible and prior to such disclosure. The Disclosing Party may then either seek appropriate protective relief from all or part of such requirement or, if it fails to successfully do so, it shall be deemed to have waived the Receiving Party's compliance with Section 28.6 with respect to all or part of such requirement. The Receiving Party shall use all commercially reasonable efforts to cooperate with the Disclosing Party in attempting to obtain any protective relief which such Disclosing Party chooses to obtain.

**28.6.3** In the event of the expiration or termination of this Agreement for any reason whatsoever, each Party shall return to the other Party or destroy all Proprietary Information and other documents, work papers and other material (including all copies thereof) obtained from the other Party in connection with this Agreement and shall use all reasonable efforts, including instructing its employees and others who have had access to such information, to keep confidential and not to use any such information, unless such information is now, or is hereafter disclosed, through no act, omission or fault of such Party, in any manner making it available to the general public.

**28.7 Governing Law.** For all claims under this Agreement that are based upon issues within the jurisdiction (primary or otherwise) of the FCC, the exclusive jurisdiction and remedy for all such claims shall as provided for by the FCC and the Act. For all claims under this Agreement that are based upon issues within the jurisdiction (primary or otherwise) of the Commission, the exclusive jurisdiction for all such claims shall be with such Commission, and the exclusive remedy for such claims shall be as provided for by such Commission. In all other respects, this Agreement shall be governed by the domestic laws of the State of Michigan without reference to conflict of law provisions.

**28.8 Taxes.** Each Party purchasing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such purchasing Party (or the providing Party when such providing Party is permitted to pass along to the purchasing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice. To the extent a sale is claimed to be for resale tax exemption, the purchasing Party shall furnish the providing Party a proper resale tax exemption certificate as authorized or required by statute or regulation by the jurisdiction providing said resale tax exemption. Failure to timely provide said



resale tax exemption certificate will result in no exemption being available to the purchasing Party.

**28.9 Non-Assignment.** Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party; provided that each Party may assign this Agreement to a corporate Affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

**28.10 Non-Waiver.** Failure of either Party to insist on performance of any term or condition of this Agreement or to exercise any right or privilege hereunder shall not be construed as a continuing or future waiver of such term, condition, right or privilege.

**28.11 Disputed Amounts.**

**28.11.1** If any portion of an amount due to a Party (the "Billing Party") under this Agreement is subject to a bona fide dispute between the Parties, the Party billed (the "Non-Paying Party") shall within sixty (60) days of its receipt of the invoice containing such disputed amount give notice to the Billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. The Non-Paying Party shall pay when due (i) all undisputed amounts to the Billing Party and (ii) all Disputed Amounts into an interest bearing escrow account with a third party escrow agent mutually agreed upon by the Parties.

**28.11.2** If the Parties are unable to resolve the issues related to the Disputed Amounts in the normal course of business within sixty (60) days after delivery to the Billing Party of notice of the Disputed Amounts, each of the Parties shall appoint a designated representative who has authority to settle the dispute and who is at a higher level of management than the persons with direct responsibility for administration of this Agreement. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. The specific format for such discussions will be left to the discretion of the designated representatives, however all reasonable requests for relevant information made by one Party to the other Party shall be honored.

**28.11.3** If the Parties are unable to resolve issues related to the Disputed Amounts within forty-five (45) days after the Parties' appointment of designated representatives pursuant to Section 28.11.2, then either Party may file a complaint with the Commission to resolve such issues or proceed with any other remedy pursuant to law or equity. The Commission may direct release of any or all funds (including any accrued interest) in the escrow account, plus applicable late fees, to be paid to either Party.

**28.11.4** The Parties agree that all negotiations pursuant to this Section 28.11 shall remain confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

**28.11.5** Any undisputed amounts not paid when due shall accrue interest from the date such amounts were due at the lesser of (i) one and one-half percent (1-1/2 %) per month or (ii) the highest rate of interest that may be charged under applicable law.

**28.12 Notices.** Notices given by one Party to the other Party under this Agreement shall be in writing and shall be (a) delivered personally, (b) delivered by express delivery service, (c) mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested or (d) delivered by telecopy to the following addresses of the Parties:

To MFS:

MFS Intelenet of Michigan, Inc.  
1 Tower Lane  
27<sup>th</sup> Floor  
Oakbrook Terrace, IL 60181  
Attn: Director, Regulatory Affairs - Central Region  
Facsimile: 708/218-0018

To Ameritech:

Ameritech Information Industry Services  
350 North Orleans, Floor 3  
Chicago, IL 60654  
Attn.: Vice President - Network Providers  
Facsimile: 312/335-2927

with a copy to:

Ameritech Information Industry Services  
350 North Orleans, Floor 3  
Chicago, IL 60654  
Attn.: Vice President and General Counsel  
Facsimile: (312) 595-1504

or to such other address as either Party shall designate by proper notice. Notices will be deemed given as of the earlier of (i) the date of actual receipt, (ii) the next business day when notice is sent via express mail or personal delivery, (iii) three (3) days after mailing in the case of first class or certified U.S. mail or (iv) on the date set forth on the confirmation in the case of telecopy.

**28.13 Publicity and Use of Trademarks or Service Marks.** Neither Party nor its subcontractors or agents shall use the other Party's trademarks, service marks, logos or other proprietary trade dress in any advertising, press releases, publicity matters or other promotional materials without such Party's prior written consent.

**28.14 Section 252(i) Obligations.** If either Party enters into an agreement (the "Other Agreement") approved by the Commission pursuant to Section 252 of the Act which provides for the provision of arrangements covered in this Agreement to another requesting Telecommunications Carrier, including itself or its affiliate, such Party shall make available to the other Party such arrangements upon the same rates, terms and conditions as those provided in the Other Agreement. At its sole option, the other Party may avail itself of either (i) the Other Agreement in its entirety or (ii) the prices, terms and conditions of the Other Agreement that directly relate to any of the following duties as a whole:

- (1) Interconnection - Section 251(c)(2) of the Act (Section 4.0 and 5.0 of this Agreement); or
- (2) Exchange Access - Section 251(c)(2) of the Act (Section 6.0 of this Agreement); or
- (3) Unbundled Access - Section 251(c)(3) of the Act (Section 9.0 of this Agreement); or
- (4) Resale - Section 251(c)(4) of the Act (Section 10.0 of this Agreement); or
- (5) Collocation - Section 251(c)(6) of the Act (Section 12.0 of this Agreement); or
- (6) Number Portability - Section 251(b)(2) of the Act (Section 13.0 of this Agreement); or
- (7) Access to Rights of Way - Section 251(b)(4) of the Act (Section 15.0 of this Agreement).

**28.15 Joint Work Product.** This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

**28.16 No Third Party Beneficiaries; Disclaimer of Agency.** This Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein express or implied shall create or be construed to create any third-party beneficiary rights hereunder. Except for provisions herein expressly authorizing a Party to act for another, nothing in this Agreement shall constitute a Party as a legal representative or agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party. Except as otherwise expressly provided in this

Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

**28.17 No License.** No license under patents, copyrights or any other intellectual property right (other than the limited license to use consistent with the terms, conditions and restrictions of this Agreement) is granted by either Party or shall be implied or arise by estoppel with respect to any transactions contemplated under this Agreement.

**28.18 Technology Upgrades.** Nothing in this Agreement shall limit Ameritech's ability to upgrade its network through the incorporation of new equipment, new software or otherwise. Ameritech shall provide MFS written notice at least ninety (90) days prior to the incorporation of any such upgrades in Ameritech's network which will materially impact MFS' service. MFS shall be solely responsible for the cost and effort of accommodating such changes in its own network.

**28.19 Survival.** The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement, including without limitation, Sections 20.4, 21.0, 22.0, 24.0, 25.0, 28.3, 28.6, 28.11, 28.13 and 28.17.

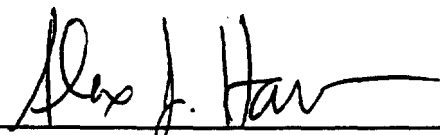
**28.20 Scope of Agreement.** This Agreement is intended to describe and enable specific Interconnection and access to unbundled Network Elements and compensation arrangements between the Parties. This Agreement does not obligate either Party to provide arrangements not specifically provided herein.


**28.21 Entire Agreement.** The terms contained in this Agreement and any Schedules, Exhibits, tariffs and other documents or instruments referred to herein, which are incorporated into this Agreement by this reference, constitute the entire agreement between the Parties with respect to the subject matter hereof, superseding all prior understandings, proposals and other communications, oral or written. Neither Party shall be bound by any preprinted terms additional to or different from those in this Agreement that may appear subsequently in the other Party's form documents, purchase orders, quotations, acknowledgments, invoices or other communications. This Agreement may only be modified by a writing signed by an officer of each Party.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 7<sup>th</sup> day of May, 1996.

MFS INTELENET OF MICHIGAN, INC.

AMERITECH INFORMATION INDUSTRY  
SERVICES, A DIVISION OF AMERITECH  
SERVICES, INC., ON BEHALF OF  
AMERITECH MICHIGAN

By:   
Printed: Alex J. Harris  
Title: Vice President, Regulatory Affairs

By:   
Printed: Neil E. Cox  
Title: President

## **SCHEDULE 1.0**

### **CERTAIN TERMS AS DEFINED IN THE ACT AS OF MAY 16, 1996**

**"Affiliate"** means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than ten percent (10%).

**"Dialing Parity"** means that a person that is not an Affiliate of LEC is able to provide Telecommunications Services in such a manner that Customers have the ability to route automatically, without the use of any access code, their Telecommunications to the Telecommunications Services provider of the Customer's designation from among two (2) or more Telecommunications Services providers (including such LEC).

**"Exchange Access"** means the offering of access to Telephone Exchange Services or facilities for the purpose of the origination or termination of Telephone Toll Services.

**"InterLATA"** means Telecommunications between a point located in a local access and transport area and a point located outside such area.

**"Local Access and Transport Area" or "LATA"** means a contiguous geographic area: (a) established before the date of enactment of the Act by a Bell operating company such that no Exchange Area includes points within more than one (1) metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or (b) established or modified by a Bell operating company after such date of enactment and approved by the FCC.

**"Local Exchange Carrier"** means any person that is engaged in the provision of Telephone Exchange Service or Exchange Access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under Section 332(c) of the Act, except to the extent that the FCC finds that such service should be included in the definition of such term.

**"Network Element"** means a facility or equipment used in the provision of a Telecommunications Service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a Telecommunications Service.

**"Number Portability"** means the ability of end users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

**"Telecommunications"** means the transmission, between or among points specified by the

user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"Telecommunications Carrier" means any provider of Telecommunications Services, except that such term does not include aggregators of Telecommunications Services (as defined in Section 226 of the Communications Act).

"Telecommunications Service" means the offering of Telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

"Telephone Exchange Service" means (a) service within a telephone exchange or within a connected system of telephone exchanges within the same exchange area operated to furnish subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (b) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

"Telephone Toll Service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

## **SCHEDULE 3.0**

### **IMPLEMENTATION SCHEDULE**

<b>LATA</b>	<b>Ameritech Interconnection Wire Center (AIWC)</b>	<b>MFS Interconnection Wire Center (MIWC)</b>	<b>Interconnection Activation Date</b>
<b>Detroit</b>	<b>Detroit Tandem DTRTM1BH20T</b>	<b>21500 Melrose SFLDMIQJSDO</b>	<b>5/17/96<sup>1</sup></b>

---

<sup>1</sup> Existing Interconnection arrangements predate execution of this Agreement.



## **PRICING SCHEDULE - MICHIGAN - PRE JANUARY 1, 1997 PRICING <sup>1</sup>**

This Pricing Schedule - Michigan - Pre January 1, 1997 Pricing shall only be operative and effective on and from the Effective Date until December 31, 1996. On and after January 1, 1997, this Pricing Schedule - Michigan - Pre January 1, 1997 Pricing shall cease to be of any force and effect and the terms of the Pricing Schedule - Michigan shall apply thereafter during the term of this Agreement.

### **I. Reciprocal Compensation**

If the number of minutes of Local Traffic terminated by either Party on the other Party's network is greater than five percent (5%), plus or minus, of the number of minutes of Local Traffic terminated by the other Party, the Parties shall compensate each other for the transport and termination of Local Traffic at the rate of \$0.015 per minute of use.

### **II. BLV/BLVI Traffic**

Rate = \$0.90 per Busy Line Verification  
\$1.10 per Busy Line Verification Interrupt  
(in addition to \$0.90 for Busy Line Verification)

### **III. Unbundled Network Elements**

#### **A. Unbundled Loop Rates**

##### **1. Loops - Business - two wire**

Rate= \$8.00 per month plus \$0.21 cross-connection charge per Loop

##### **Loops - Business - four wire**

Rate= \$16.00 per month plus \$0.42 cross-connection charge per Loop

---

<sup>1</sup> These rates, terms and conditions shall apply unless altered by the Michigan Public Service Commission prior to December 31, 1996. If such action occurs, the resulting rates, terms and conditions shall apply during the Interim Period.

2. Loops - Residential - two wire

Rate= \$11.00 per month plus \$0.21 cross-connection charge per Loop

Loops - Residential - four wire

Rate= \$22.00 per month plus \$0.42 cross-connection charge per Loop

B. Non-Recurring Charges

1. Unbundled Loops

Not applicable pre January 1, 1997.

2. Number Portability

Not applicable pre January 1, 1997.

C. Additional Loop Conditioning Charges<sup>2</sup>

Loop Type	Additional Charges per Loop
Electronic Key Line	Rates based on cost
ISDN	\$22.50 per month per Loop
HDSL 2W	Rates based on cost
HDSL 4W	Rates based on cost
ADSL 2W	Rates based on cost

IV. Interim Telecommunications Number Portability

Rate = \$1.14 per ported number per month including twenty (20) call paths.

---

<sup>2</sup> The Additional Loop Conditioning Charges are only applicable if the distance requested on an ordered Loop exceeds such Loop's corresponding transmission characteristics as set forth in Section 9.4.5.

## PRICING SCHEDULE — MICHIGAN

### I. Reciprocal Compensation

Rate = \$0.009 per minute Tandem

### II. Information Services Billing & Collection

Fee = \$0.03 per message

### III. BLV/BLVI Traffic

Rate = \$0.90 per Busy Line Verification  
 \$1.10 per Busy Line Verification Interrupt  
 (in addition to \$0.90 for Busy Line Verification)

### IV. Transiting

Rate = \$0.002 per minute

### V. Unbundled Network Elements

#### A. Unbundled Loop Rates\*

Loop Type	Monthly Rates		
	Access Area <sup>1</sup>		
	A	B	C
Analog 2W	\$ 8.60	\$11.10	\$14.60
Analog 4W	\$17.20	\$22.20	\$29.20
ADSL 2W/HDSL 2W	\$ 8.60	\$11.10	\$14.60
ADSL 4W/HDSL 4W	\$17.20	\$22.20	\$29.20
BRI ISDN	\$ 8.60	\$11.10	\$14.60
PBX Ground Start Coin	\$ 8.60	\$11.60	\$15.10
Coin	\$ 8.60	\$11.60	\$15.10
Electronic Key Line	\$ 8.60	\$11.60	\$15.10

---

\* Common Line Charges and cross-connection charges are included in the referenced Loop rates.

<sup>1</sup> "Access Area" is as defined in Ameritech's applicable tariffs for business and residential Exchange Line Services.

**B. Non-Recurring Charges**

**1. Unbundled Loops**

Date of Acceptance of Service Order	Service Order Charge <sup>2</sup>	Line Connection Charge <sup>3</sup>
Prior to 6/1/97	\$30	\$50
On or after 6/1/97	\$30	\$35

**2. Number Portability**

Date of Acceptance of Service Order	Service Order Charge <sup>4</sup>	Initial Line Connection Charge <sup>5</sup>	Charge for Subsequent Additional Call Path Connections <sup>6</sup>
Prior to 6/1/97	\$30	\$50	\$20
On or after 6/1/97	\$30	\$35	\$20

---

<sup>2</sup> The Service Order Charge is a per occasion charge applicable to any number of Loops ordered for the same location and same Customer account.

<sup>3</sup> The Line Connection Charge applies to each Loop purchase.

<sup>4</sup> The Service Order charge is a per occasion charge applicable per ported account per Customer location.

<sup>5</sup> The Line Connection Charge applies to each ported number. If Number Portability is purchased with the Loop, the Initial Line Connection Charge shall be waived. The Initial Line Connection Charge includes porting the initial number with up to ninety (90) call paths.

<sup>6</sup> The Charge for Subsequent Additional Call Path Connections is applied when purchasing up to an additional ninety (90) paths for an individual ported number. This charge also applies to any changes to the number of call paths on a ported number.

C. Additional Loop Conditioning Charges<sup>7</sup>

Loop Type	Additional Charges per Loop
Electronic Key Line	Rates based on cost
ISDN	\$22.50 per month per Loop
HDSL 2W	Rates based on cost
HDSL 4W	Rates based on cost
ADSL 2W	Rates based on cost

---

<sup>7</sup> The Additional Loop Conditioning Charges are only applicable if the distance requested on an ordered Loop exceeds such Loop's corresponding transmission characteristics as set forth in Section 9.4.5.

**VI. Interim Telecommunications Number Portability**

**A. Up to twenty (20) call paths per ported number:**

**Rate = \$3.00 per ported number per month.**

**B. Twenty-one (21) to ninety (90) call paths per ported number:**

**Rate = \$0.50 per each additional call path over twenty (20) per month.**

**C. Ninety-one (91) or more call paths per ported number: Individual case basis.**

## **EXHIBIT A**

### **NETWORK ELEMENT BONA FIDE REQUEST**

1. Each Party shall promptly consider and analyze access to a new unbundled Network Element with the submission of a Network Element Bona Fide Request hereunder. The Network Element Bona Fide Request process set forth herein does not apply to those services requested pursuant to Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) ¶ 259 and n.603.

2. A Network Element Bona Fide Request shall be submitted in writing and shall include a technical description of each requested Network Element.

3. The requesting Party may cancel a Network Element Bona Fide Request at any time, but shall pay the other Party's reasonable and demonstrable costs of processing and/or implementing the Network Element Bona Fide Request up to the date of cancellation.

4. Within ten (10) business days of its receipt, the receiving Party shall acknowledge receipt of the Network Element Bona Fide Request.

5. Except under extraordinary circumstances, within thirty (30) days of its receipt of a Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a preliminary analysis of such Network Element Bona Fide Request. The preliminary analysis shall confirm that the receiving Party will offer access to the Network Element or will provide a detailed explanation that access to the Network Element is not technically feasible and/or that the request does not qualify as a Network Element that is required to be provided under the Act.

6. If the receiving Party determines that the Network Element Bona Fide Request is technically feasible and otherwise qualifies under the Act, it shall promptly proceed with developing the Network Element Bona Fide Request upon receipt of written authorization from the requesting Party. When it receives such authorization, the receiving Party shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals.

7. Unless the Parties otherwise agree, the Network Element Bona Fide Request must be priced in accordance with Section 252(d)(1) of the Act.

8. As soon as feasible, but not more than ninety (90) days after its receipt of authorization to proceed with developing the Network Element Bona Fide Request, the receiving

Party shall provide to the requesting Party a Network Element Bona Fide Request quote which will include, at a minimum, a description of each Network Element, the availability, the applicable rates and the installation intervals.

9. Within thirty (30) days of its receipt of the Network Element Bona Fide Request quote, the requesting Party must either confirm its order for the Network Element Bona Fide Request pursuant to the Network Element Bona Fide Request quote or seek arbitration by the Commission pursuant to Section 252 of the Act.

10. If a Party to a Network Element Bona Fide Request believes that the other Party is not requesting, negotiating or processing the Network Element Bona Fide Request in good faith, or disputes a determination, or price or cost quote, such Party may seek mediation or arbitration by the Commission pursuant to Section 252 of the Act.



## **FIRST AMENDMENT TO LISTING AND DIRECTORY SERVICES AGREEMENT**

This First Amendment (the "Amendment") to Listing and Directory Services Agreement is effective as of the \_\_\_\_ day of December, 1996 (the "Effective Date"), by and between Ameritech Advertising Services, a Delaware corporation with offices at 100 East Big Beaver Road, Troy, Michigan 48083 ("Publisher") and MFS Intelenet, Inc., a Delaware corporation with offices at 1 Tower Lane, 27<sup>th</sup> Floor, Oakbrook Terrace, Illinois 60181 ("MFS").

WHEREAS, Publisher and MFS are parties to that certain Listing and Directory Services Agreement dated as of May 17, 1996 (the "Listing Agreement") which sets forth the terms and conditions under which Publisher will provide certain services to MFS in connection with the Publication and distribution of Directories to MFS Subscribers.

WHEREAS, the Parties have agreed that the Listing Agreement be amended to provide for certain terms and conditions which address the opinion of the Michigan Public Service Commission in an order approved on December 20, 1996 in Case No. U-11098 and have entered into this Amendment to set forth such terms and conditions.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MFS and Publisher hereby agree as follows:

### **1.0 DEFINITIONS.**

Unless otherwise defined herein, capitalized terms shall have the meaning assigned to such terms in the Listing Agreement.

### **2.0 AMENDMENTS TO LISTING AGREEMENT.**

On and from the Effective Date, the Listing Agreement is hereby amended as follows:

2.1 Article I of the Listing Agreement is hereby amended by adding thereto in appropriate alphabetical order the following:

"Yellow Pages Directories" shall mean Directories or the portion of co-bound Directories consisting primarily of classified advertising, including display advertising and business listings by appropriate heading classification.